

# **EXHIBIT 1**

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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CITY AND COUNTY OF SAN  
FRANCISCO, et al.,

Plaintiffs,

v.

UNITED STATES POSTAL SERVICE,  
Defendant.

Civil Case No.: 3:09-cv-01964-RS (EDL)

**PLAINTIFFS' NOTICE OF MOTION AND  
RULE 59(e) MOTION TO ALTER OR  
AMEND THE JUDGMENT GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

Date: January 5, 2012  
Time: 1:30pm  
Dept: Courtroom 3, 17th Floor  
Judge: Honorable Richard Seeborg

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on January 5, 2012 at 1:30 p.m. in Courtroom 3, 17th Floor, before the Honorable Richard Seeborg, 450 Golden Gate Avenue, San Francisco, CA 94102, or as soon as the matter may be heard, Plaintiffs City and County of San Francisco (“the City”), Central City SRO Collaborative, San Francisco Tenants Union, and Housing Rights Committee of San Francisco (collectively, “Plaintiffs”) will and hereby do move pursuant to Federal Rule of Civil Procedure 59(e) to amend the Court’s October 25th Order Granting Defendant’s Motion for Summary Judgment. Plaintiffs seek the deletion of Court’s interpretation of Section 631.451(b) of the Postal Operations Manual as well as its finding that the Postal Service did not violate its regulations by denying centralized delivery to SRO residents in San Francisco.

This motion is based on the Federal Rule of Civil Procedure 59(e), the following Memorandum of Points and Authorities, the accompanying declarations of Michael M. Markman and Ryan M. Buschell, each with supporting exhibits, a Request for Judicial Notice, and such other matters and oral argument as the court may consider.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiffs ask the Court to amend its Order Granting Defendant’s Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 59(e). In its Order, the Court wrote, “By using single-point delivery for SROs, the USPS is not violating its own regulations in the form of the POM.” Doc. No. 351 at 20. The Court’s conclusion was based in part on the Court’s finding that:

What plaintiffs fail to acknowledge, however, is that POM § 631.45 does not mandate the treatment of all family hotels as residential apartments mandated to receive centralized delivery. Rather, the regulation simply states that delivery of mail to individualized boxes in these family hotels is permitted if the “installation and maintenance of [such] mail receptacles is approved by the Postal Service.” POM § 631.451(b). No evidence exists in this record that the USPS approved installation of mail receptacles for the purposes of converting to centralized delivery.

1 Doc. No. 351 at 19-20. Plaintiffs ask the Court to delete its finding relating to the requirements of  
 2 Section 631.451(b) of the Postal Operations Manual (the “POM”) and the Court’s ultimate  
 3 conclusion that “the USPS is not violating its own regulations” for two reasons.

4 *First*, Plaintiff City and County of San Francisco is pursuing a regulatory challenge before  
 5 the Postal Regulatory Commission (the “PRC”) to the Postal Service’s activities relating to SROs  
 6 in San Francisco. The PRC is empowered by statute to hear Postal regulation challenges based on  
 7 discrimination.<sup>1</sup> 39 U.S.C. § 403(c), 3662. Congress conferred exclusive jurisdiction to hear such  
 8 challenges to the PRC under the Postal Reorganization Act (the “PRA”). For this reason, the  
 9 parties did not ask the Court to rule on whether the Postal Service was in violation of the POM.  
 10 Instead, the Plaintiffs pointed to section 631.45 of the POM as evidence of discrimination against  
 11 SROs as a category compared to the general category of all multi-unit residential buildings, a key  
 12 area of inquiry for an equal protection analysis. Hearing Tr. at 54-55.

13 *Second*, as a substantive matter, Section 631.451(b) does not grant the Postal Service the  
 14 discretion implied by the Court’s opinion. The Court was not briefed on the topic of the  
 15 installation and maintenance of mailboxes mentioned in section 631.451(b), or its place in the  
 16 POM’s regulatory scheme. The Postal Service never pointed to this aspect of the regulation in its  
 17 argument and so the Plaintiffs did not address it. Section 631.451(b) does not grant the Postal  
 18 Service absolute discretion to deny centralized delivery to conforming buildings by declining to  
 19 approve installation and maintenance of mail receptacles. Rather, Postal regulations, the  
 20 regulatory history, and Postal Service practice all support the conclusion that POM § 631.451(b)  
 21 merely requires that buildings install the appropriate type of mailbox in the manner described in  
 22 POM § 632.6, *et seq.* Unfortunately, the statement in the Order concluding that, to defeat the  
 23 Postal Service’s summary judgment motion, Plaintiffs were required to come forward with  
 24 evidence that the USPS approved installation of mail receptacles for the purposes of converting to  
 25

---

26 <sup>1</sup> The City’s regulatory challenge before the PRC is not burdened by the analytical framework of  
 27 rational basis review, which this Court had to apply in assessing Plaintiffs’ constitutional challenges  
 28 in this case.

1 centralized delivery, is clearly erroneous.

2 Although the Plaintiffs disagree with the Court's resolution of their constitutional claims,  
3 this motion only seeks the deletion of the Court's regulatory finding. That finding was  
4 unnecessary to the resolution of the claims actually before the Court and may be removed without  
5 disturbing the Court's ultimate conclusion.

## 6 **II. ARGUMENT**

7 The Court has discretion to reconsider and amend a judgment pursuant to Federal Rule of  
8 Civil Procedure 59(e). Fed.R.Civ.Pro. 59(e). "Reconsideration is appropriate if the district court  
9 (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision  
10 was manifestly unjust, or (3) if there is an intervening change in controlling law." *School Dist.*  
11 *No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). The second of these tests is satisfied  
12 here.

### 13 **A. This Court Did Not Have Jurisdiction to Decide Whether The Postal Service** 14 **Violated its Own Regulations**

15 Under the PRA, the Postal Regulatory Commission has exclusive jurisdiction in the first  
16 instance to decide statutory and regulatory challenges involving the Postal Service. *See Currier v.*  
17 *Potter*, 379 F.3d 716, 725 (9th Cir. 2004) ("Given this statutory backdrop, we are satisfied that the  
18 PRA evinces Congress's general intent to withdraw judicial scrutiny of postal regulations."). In  
19 accordance with the PRA, and the guidance provided by *Currier*, Plaintiffs did not pursue  
20 regulatory or statutory claims in this case. During all phases of this litigation, both parties  
21 acknowledged that Plaintiffs' regulatory challenges could not be heard before this Court. *See,*  
22 *e.g.*, Doc. No. 21 at 2 ("Under the PRA, Congress further removed the district courts' jurisdiction  
23 over claims regarding postal rates and services."); Doc. No. 19 at 13-14 (representing that  
24 Plaintiffs did not bring a regulatory claim before the district court).

25 Instead, Plaintiff City and County of San Francisco filed a regulatory challenge before the  
26 PRC. That action is pending. The PRC recently ordered the parties to submit briefing concerning  
27 the impact of this Court's summary judgment ruling on the PRC action. Buschell Decl., ¶ 2, Exh.  
28 A. Section 631.45 of the POM is highly relevant to the constitutional questions that were before

1 this Court, as evidence of a lack of rational basis under this Court’s Equal Protection analysis. *See*  
 2 Doc. No. 304 at 16-17. But, the PRC can and should decide the question of whether the Postal  
 3 Service’s discriminatory treatment of SROs violates Postal Service regulations. Plaintiffs are  
 4 concerned that the Postal Service will attempt to use this Court’s order to suggest to the PRC that  
 5 the regulatory issue has already been definitively decided.

6 **B. This Court’s Interpretation of § 631.451(b) is Clearly Erroneous.**

7 Section 631.451 conditions centralized delivery on a number of factors, including the  
 8 physical characteristics of the building and on whether “[t]he installation and maintenance of mail  
 9 receptacles is approved by the Postal Service.” POM § 631.451(b). This provision was never  
 10 intended to impart unfettered discretion to the Postal Service to disapprove of installation of mail  
 11 receptacles in a sub-category of multi-unit residential buildings where the receptacles themselves  
 12 meet the physical criteria for Postal Service approval.

13 The requirements for mailbox receptacle installation and maintenance are set out elsewhere  
 14 in the Postal Service regulations. Section 632.6 of the POM, entitled “Apartment House  
 15 Receptacles,” describes the criteria on which the Postal Service is to base its approval. POM §  
 16 632.6, *et seq.* For example, buildings must install a mailbox model that was made by an approved  
 17 manufacturer, *see* POM § 632.621, ensure that the mailbox is covered by a canopy, *see* POM §  
 18 632.622(b), and is provided adequate night lighting, *see id.* Additionally, owners and building  
 19 managers are required to keep all receptacles in good repair and notify the postmaster when  
 20 inside-letterbox locks are no longer needed. *See* POM § 632.627. When new apartment buildings  
 21 are constructed or existing buildings remodeled, Section 632.63 requires the Postal Service to  
 22 inform builders and owners of these requirements and “provide a suitable inspection to ensure that  
 23 only approved receptacles are installed in conformance to these regulations.” POM § 632.63.

24 Nothing in Section 631.451(b) or 632.6 (or anywhere else in the Postal Service regulations  
 25 that Plaintiffs are aware of) gives the Postal Service discretion to decide to reject receptacles that  
 26 meet these regulatory criteria. Thus, the requirement in Section 631.451(b) that “[t]he installation  
 27 and maintenance of mail receptacles is approved by the Postal Service” simply means that the  
 28 Postal Service must have conducted the inspection mandated by Section 632.63 and approved the

1 building as having complied with the applicable regulations. The regulatory history of these  
 2 provisions confirm that mailbox installation and maintenance requirements are intended to ensure  
 3 the safety and efficiency of city delivery, not to permit the Postal Service to discriminate against a  
 4 sub-class of multi-unit residences on a basis unrelated to proper installation and maintenance. *See*  
 5 Doc. No. 302-4, Exh. C; Markman Decl., ¶¶ 2-3, Exh. A-B.

6 The bottom line is that the Postal Service may deny centralized delivery under Section  
 7 631.451(b), but only when that denial is based on the installation and maintenance requirements  
 8 listed in Section 632.6, *et seq.* The Postal Service's policy relating to SROs in San Francisco is to  
 9 categorically refuse to provide centralized delivery—it will not even look at the installation and  
 10 maintenance of mail receptacles to evaluate compliance with Section 632.6 because the Postal  
 11 Service discriminates against all SROs as a class (unlike other similarly situated multi-unit  
 12 residential buildings). Doc. No. 304 at 6-7 (citing Doc. No. 304-13, Exh. K). The Postal Service  
 13 did not raise the issue of inspection under Section 631.451(b) as a basis for seeking summary  
 14 judgment. Accordingly, the Plaintiffs' briefs did not discuss evidence relating to Postal Service  
 15 approval of installation of mailbox receptacles in their opposition. Simply put, the Postal Service  
 16 policy is to discriminate against SROs by refusing to conduct any inspection whatsoever. Doc.  
 17 No. 304-13, Exh. K.

### 18 **III. CONCLUSION**

19 For the foregoing reasons, this Court should amend its summary judgment order by  
 20 deleting the text starting with the sentence beginning on line 12 of page 19 to the end of the  
 21 sentence ending on line 4 of page 20. (Doc. No. 351).

22  
 23 Dated: November 18, 2011

By: /s/ Michael Markman  
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 Tara M. Steeley  
 Attorneys for Plaintiff  
 CITY AND COUNTY OF SAN  
 FRANCISCO

27 Steve Collier  
 Attorneys for Plaintiffs  
 28

1 CENTRAL CITY SRO COLLABORATIVE,  
2 SAN FRANCISCO TENANTS UNION, and  
3 HOUSING RIGHTS COMMITTEE OF SAN  
4 FRANCISCO

5 Michael M. Markman  
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8 Attorneys for Plaintiffs  
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12 TENANTS UNION, and HOUSING  
13 RIGHTS COMMITTEE OF SAN  
14 FRANCISCO  
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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

CITY AND COUNTY OF SAN  
FRANCISCO, et al.,

Plaintiffs,

v.

UNITED STATES POSTAL SERVICE,  
Defendant.

Civil Case No.: 3:09-cv-01964-RS (EDL)

**DECLARATION OF RYAN M.  
BUSCHELL IN SUPPORT OF  
PLAINTIFFS' RULE 59(e) MOTION  
TO ALTER OR AMEND THE  
JUDGMENT GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

Date: January 5, 2012  
Time: 1:30 p.m.  
Dept: Courtroom 3, 17th Floor  
Judge: Honorable Richard Seeborg

1 I, Ryan M. Buschell, declare:

2 1. I am an attorney licensed to practice before this Court and an associate at the law  
3 firm of Covington & Burling LLP, attorneys for Plaintiffs City and County of San Francisco,  
4 Central City SRO Collaborative, San Francisco Tenants Union, and Housing Rights Committee  
5 of San Francisco (collectively, "Plaintiffs"). I have personal knowledge of the matters stated,  
6 and if called to testify, I can and will testify competently as to all matters set forth herein. I  
7 make this declaration in support of the Plaintiffs' Motion to Alter or Amend the Judgment  
8 Granting Defendant's Motion for Summary Judgment.

9 2. Attached hereto as **Exhibit A** is a true and correct copy of the Postal Regulatory  
10 Commission's "Order Addressing Status of Compliant," Filing ID 77590, Docket No. C2011-2,  
11 issued on November 8, 2011.

12 3. I declare under penalty of perjury under the laws of the United States of America  
13 that the foregoing is true and accurate and that I have executed this declaration on November 18,  
14 2011 in San Francisco, California.

15  
16 Dated: November 18, 2011

/s/ Ryan M. Buschell

Ryan M. Buschell

# **EXHIBIT A**

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Mark Acton, Vice Chairman;  
Nanci E. Langley; and  
Robert G. Taub

Complaint of the City  
and County of San Francisco

Docket No. C2011-2

ORDER ADDRESSING STATUS OF COMPLAINT

(Issued November 8, 2011)

The Postal Service recently sought a stay in this case pending an anticipated order on its motion for summary judgment in a separate but related Federal court case.<sup>1</sup> The Motion for Stay was filed the same day the Public Representative reported the parties had not reached a settlement, despite concerted efforts to do so. He suggested the Commission proceed with the case, but encourage the parties to pursue a settlement on an independent track.<sup>2</sup>

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<sup>1</sup> Motion of United States Postal Service to Stay Proceedings, September 29, 2011 (Motion for Stay). The Motion for Stay urged the Commission to grant the requested stay on abstention (judicial deference) grounds. In an Opposition to Postal Service's Motion to Stay Proceedings, October 7, 2011 (Opposition), Complainant San Francisco opposed the Motion for Stay and, in particular, objected to reliance on the abstention doctrine.

<sup>2</sup> Public Representative's Second Report Concerning Potential for Settlement (September 29, 2011).

The anticipated Court order was issued October 25, 2011.<sup>3</sup> The Postal Service motion for summary judgment was granted. The Court found against the Postal Service on procedural issues, but in favor of the Postal Service on substantive grounds, referred to collectively as constitutional claims. The discussion of the latter included a judicial interpretation of the Postal Service's centralized delivery regulation, which also is at issue in the Complaint.

Given these developments, the Commission directs participants to address with specificity the implications of the Court order on the continued viability and scope of this case.

The Commission also reiterates its strong policy of encouraging settlement of complaints. It therefore further directs participants to address the possibility of settlement. Participants may address any other matters they deem relevant to a Commission decision on the status of this case.

*It is ordered:*

1. The Commission directs participants to address the matters set out in the body of this Order.
2. Responses are due November 21, 2011.

By the Commission.

Shoshana M. Grove  
Secretary

---

<sup>3</sup> See Order Granting Defendant's Motion for Summary Judgment issued in *City and County of San Francisco, et al., v. United States Postal Service, N.D. Ca. (No. C 09-1964 RS)*.

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HOUSING RIGHTS COMMITTEE OF SAN FRANCISCO

**UNITED STATES DISTRICT COURT  
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UNITED STATES POSTAL SERVICE,

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Civil Case No.: 3:09-cv-01964-RS (EDL)

**PLAINTIFFS' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT OF  
PLAINTIFFS' RULE 59(e) MOTION  
TO ALTER OR AMEND THE  
JUDGMENT GRANTING  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

Date: January 5, 2012  
Time: 1:30pm  
Dept: Courtroom 3, 17th Floor  
Judge: Honorable Richard Seeborg

1 The Plaintiffs request that the Court take judicial notice the documents attached  
 2 to the Declaration of Michael M. Markman, each of which is “capable of accurate and ready  
 3 determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R.  
 4 Evid. 201(b)(2).

5 A Court may take judicial notice of adjudicative facts pursuant to Rule 201 of the  
 6 Federal Rules of Evidence. A judicially noticed fact must be one not subject to reasonable  
 7 dispute, which means it is either (1) generally known within the territorial jurisdiction of the  
 8 trial court or (2) capable of accurate and ready determination by resort to sources whose  
 9 accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b). Judicial notice is mandatory  
 10 “if requested by a party and if [the court is] supplied with the necessary information.” Fed. R.  
 11 Evid. 201(d). Plaintiffs request this Court take judicial notice of the following Exhibits:

12  
 13 **A.** Section 47 of the Postal Bureau’s Manual of Instructions, published in 1944.

14 **B.** Part 155 of the Postal Service Manual, Post Office Services TL-223, published in 1968.  
 15

16 Both documents meet the requirements for judicial notice. The Ninth Circuit has  
 17 taken judicial notice of both postal regulations, *see Mora v. Vasquez (In re Mora)*, 199 F.3d  
 18 1024, 1028 n. 7 (9th Cir.1999), and administrative bulletins, *Brown v. Valoff*, 422 F.3d 926, 933  
 19 n.9 (9th Cir. 2005). Thus, this Court can and should take judicial notice of Exhibits A and B.  
 20

21 Accordingly, Plaintiffs request that the Court take judicial notice of Exhibits A through  
 22 B attached to the Declaration of Michael M. Markman.  
 23

24 Respectfully submitted,

25 Dated: November 18, 2011

By: /s/ Michael M. Markman

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Tara M. Steele

Attorneys for Plaintiff

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and HOUSING RIGHTS  
COMMITTEE OF SAN FRANCISCO



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HOUSING RIGHTS COMMITTEE OF SAN FRANCISCO

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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CITY AND COUNTY OF SAN  
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Plaintiffs,

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UNITED STATES POSTAL SERVICE,  
  
Defendant.

Civil Case No.: 3:09-cv-01964-RS (EDL)

**DECLARATION OF MICHAEL M.  
MARKMAN IN SUPPORT OF  
PLAINTIFFS' REQUEST FOR  
JUDICIAL NOTICE**

Date: January 5, 2012  
Time: 1:30pm  
Dept: Courtroom 3, 17th Floor  
Judge: Honorable Richard Seeborg

1 I, Michael M. Markman, declare:

2 1. I am an attorney licensed to practice before this Court and a partner at the law  
3 firm of Covington & Burling LLP, attorneys for Plaintiffs City and County of San Francisco,  
4 Central City SRO Collaborative, San Francisco Tenants Union, and Housing Rights Committee  
5 of San Francisco (collectively, "Plaintiffs"). I have personal knowledge of the matters stated,  
6 and if called to testify, I can and will testify competently as to all matters set forth herein. I  
7 make this declaration in support of the Plaintiffs' Request for Judicial Notice.

8 2. Attached hereto as **Exhibit A** is a true and correct copy of Section 47 of the  
9 Postal Bureau's Manual of Instructions, published in 1944.

10 3. Attached hereto as **Exhibit B** is a true and correct copy of Part 155 of the Postal  
11 Service Manual, Post Office Services TL-223 (1968).

12 4. I declare under penalty of perjury under the laws of the United States of America  
13 that the foregoing is true and accurate and that I have executed this declaration on November 18,  
14 2011 in San Francisco, California.

15  
16 Dated: November 18, 2011

/s/ Michael M. Markman

Michael M. Markman

# **EXHIBIT A**

353.42

MANUAL OF INSTRUCTIONS  
BUREAU OF THE  
FIRST ASSISTANT POSTMASTER GENERAL

U. S. Post Office Dept.  
111

FIRST ASSISTANT POSTMASTER GENERAL  
WASHINGTON 25, D. C.  
1944



Section 1

INTRODUCTION

*This Book of Instructions is prepared to point out to employees of the Bureau of the First Assistant Postmaster General the more important duties and to give suggestions as to their performance. It is to supplement rather than to take the place of the Postal Laws and Regulations and is intended for the personal guidance of the above-mentioned employees.*



Section 47

47-1

APARTMENT-HOUSE MAIL RECEPTACLES

1. The question of mail receptacles where three or more families occupy the same dwelling is treated under the subject "Apartment-House Mail Receptacles," and specific instructions regarding the construction requirements for these receptacles will be found in the pamphlet of the same heading. A list of manufacturers and distributors of apartment-house mail receptacles is forwarded to all postmasters upon request, and names of manufacturers are added to this list by publication in The Postal Bulletin when they qualify for the manufacture of approved receptacles.

2. The Department requires the installation of approved mail boxes in all apartment houses, family hotels and flats containing three or more apartments where the management has not arranged that mail for the tenants be delivered at the office or desk for distribution by its employees. This order also includes apartment houses, family hotels and flats, which may be so substantially remodeled as to involve a material change in the location of mail receptacles, and when it is necessary to replace old-style receptacles for any cause they shall be replaced by receptacles conforming to the regulations. However, we do not withdraw delivery service from apartment houses where the old-style boxes are installed.

3. Upon receipt of a request from a manufacturer for Departmental approval to manufacture an apartment-house mail receptacle, he should be requested to submit a sample of his product, giving it a name or number. At this Bureau's request the Fourth Assistant will furnish him a dummy arrow lock for use while making the receptacle. If, upon examination, his pattern is found to be defective, it is returned with an explanation of the defect. If approved, his name is added to the list of others authorized to manufacture receptacles.

4. The Department insists upon compliance with the grouping instructions but will make exceptions when structural designs are such that groups of eight each cannot be located. This matter is then usually taken up with the builder with the request that in future designing he keep in mind the Department's regulations with regard to location of the mail receptacles.

5. When inquiries are received regarding delivery of mail in old style receptacles which are out of order, that is, those which have not been approved by the Department, we should request installation of the approved type of receptacle, but replacement cannot be enforced, provided the old receptacles are repaired.



6. The approved receptacles must be placed in all apartments of three or more separate units reached through a common entrance, notwithstanding one of the occupants may get his mail at some other place. Where an apartment is separated into units or groups with a separate entrance, receptacles should be placed at the entrance to each group. Mail should be delivered to all entrances of apartment houses regardless of whether such entrances are located in the front, on the side or in the rear of such buildings.

7. If receptacles are found to be inadequate or damaged to such an extent that the mail is not properly protected, the owner should be advised of the Department's requirements and if the antiquated or damaged equipment is not replaced or repaired within a reasonable time, say thirty to ninety days, service may be withdrawn. The owner and tenants should be advised of the proposed action.

8. The requirement is that the barrel of the lock shall be not over  $5\frac{1}{2}$  feet from the floor, but we have, in some cases, approved boxes if placed higher when the owner had no knowledge of the requirements. In such cases, however, the owner should be requested to construct a platform underneath the receptacles so that the carrier can reach the lock without difficulty.

9. In case of complaints of lost keys, the complainant should be advised to take the matter up with the manufacturer or possibly the superintendent of the building may have a duplicate key to the receptacle.

10. Court action is not advisable to recover loss on account of destruction of the Arrow Lock as the value is less than \$1.00.

# **EXHIBIT B**



## Part 155

### CITY DELIVERY

#### 155.1 ESTABLISHING CITY DELIVERY

City delivery service may be established at any post office with annual postal receipts of at least \$10,000 and having a population of 2,500 or more living within territory possessing good continuous sidewalks, surfaced streets, house numbers, street signs, and mail receptacles or door slots. The territory must be 50 percent improved with houses. When two or more building lots constitute the grounds of one residence, the plot may be regarded as improved. Where all other requirements are met, that regarding sidewalks is waived if there are suitable walks from streets to houses. Walks of any material, including gravel and cinders, that render them passable throughout the year are acceptable.

#### 155.2 EXTENSION OF CITY DELIVERY

To extend existing city delivery service by foot carrier to new areas, 50 percent of the proposed new area must be improved with houses, and meet the other requirements for establishment of city delivery. These requirements do not apply to the same extent to delivery by motorized city carrier.

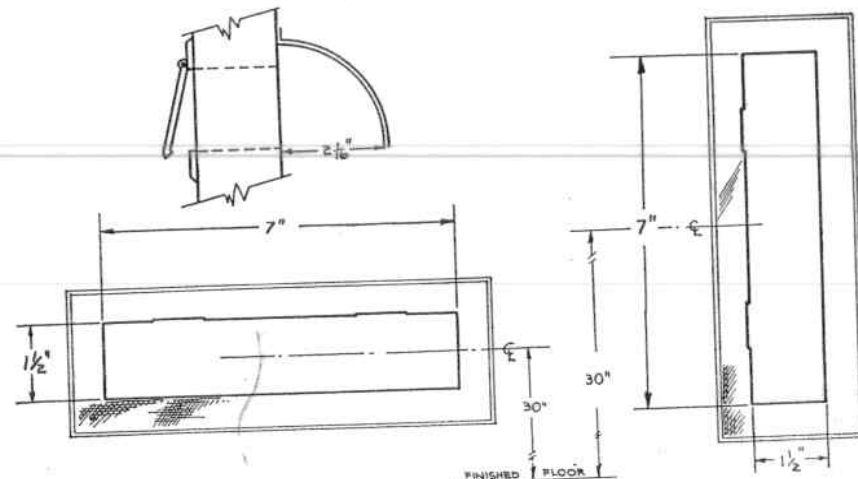
#### 155.3 SUBMISSION OF PETITIONS

Requests or petitions to establish, change, or extend city delivery service must be made to the local postmaster. No formal petition is required.

#### 155.4 MAIL RECEPTACLES

**.41 OBLIGATION OF PATRON.** Patrons of the carrier delivery service must provide mail receptacles or door slots. Business houses are not required to provide mail receptacles or door slots if they are open and someone is on hand to receive the mail when the carrier calls. Where an office building is equipped with an elevator, carriers will deliver to individual offices, provided they are open when the carrier arrives. If they will not be open, mail receptacles or door slots must be provided.

**.42 DOOR SLOT SPECIFICATIONS.** The clear rectangular opening in the outside slot plate must be at least  $1\frac{1}{2}$  inches wide and 7 inches long. The slot must have a flap, hinged at the top if placed horizontally, and hinged on the side away from the hinge side of the door if placed vertically. When an inside hood is used to provide greater privacy, the hooded portion must not be below the bottom line of the slot in the outside plate if placed horizontally, or beyond the side line of the slot in the outside plate nearest the hinge edge of the door if placed vertically. The hood at its greatest projection must not be less than  $2\frac{1}{16}$  inches beyond the inside face of the door. Door slots must be placed not less than 30 inches above the finished floor line.



#### 155.5 OUT-OF-BOUNDS PATRONS

Patrons located outside city delivery limits may be given delivery service if they erect boxes on the carrier's regular line of travel. Special delivery, parcel post, insured, certified, COD, and registered mail will be delivered to the residences of out-of-bounds patrons, if the residences are not more than three blocks from the carrier's line of travel, and provided passable walks have been constructed or the street is not impassable; otherwise, a notice will be left in the box requesting that the patron call for the mail. If an ordinary parcel is involved and it can be placed in the box, delivery will be made in that manner.

#### 155.6 APARTMENT HOUSE RECEPTACLES

##### .61 CONDITIONS REQUIRING INSTALLATION OF RECEPTACLES

###### .611 Requirements for Delivery

- The delivery of mail to individual boxes in apartment houses, family hotels, residential flats, and business flats in residential areas, containing three or more apartments having a common street entrance or common street number, shall be contingent on the installation and maintenance of United States Post Office approved mail receptacles, one for each apartment, including resident manager and janitor, unless the management has arranged for the mail to be delivered at the office or desk for distribution by its employees. The cost of receptacles and their installation is paid for by the owner of the building.
- The delivery of mail in a new apartment house where approved mail receptacles are installed at two or more entrances is contingent upon assignment of a different address number to each entrance. The tenants' correct mailing address shall be the address of the entrance at which their mail receptacles are located.

###### .612 Improved Receptacles

Owners and managers of apartment houses, family hotels, and flats, equipped with obsolete apartment house mail receptacles are urged to install up-to-date and approved receptacles to assure more adequate protection to the mail of occupants. When these buildings are remodeled to provide additional apartments or when a material change in the location of boxes is made, they shall be equipped with approved receptacles, with full-length doors on vertical-type installations, and a capacity as specified in 155.622.



**.613 Provision for Access**

Where apartment buildings are equipped with self-closing, automatically-locking street entrance doors, access for delivery employees must be provided by an attendant, an electro-mechanical door lock system, or a key retaining box within convenient reach of the door. Both devices must incorporate an Arrow lock; to activate the electro-mechanical door lock, or for safekeeping of the building entrance door key. (See sec. 352.45 1.)

**.614 Inspection and Approval**

When new apartments are being erected or existing ones are remodeled, postmasters will inform builders and owners of the requirements of these regulations and will provide for a suitable inspection to see that receptacles of safe and durable construction are installed in conformity with these regulations.

**.615 Submission of Sample Boxes**

Individuals or firms interested in the manufacture of apartment house mailboxes must submit to the Bureau of Operations for approval the following:

- a. Vertical Style—a three-gang unit complete with individual door locks and provision for an arrow lock in the master door.
- b. Horizontal Style—a four-gang unit (two over two) with locks as above. If rearloaded, a door or screen on back of boxes is not necessary.

**.62 SPECIFICATIONS FOR CONSTRUCTION OF RECEPTACLES****.621 Materials**

The receptacles, including master doors and frames, and individual box doors, shall be manufactured of material of such strength and thickness as to provide reasonable safety to the mail depositor.

**.622 Capacity**

Both horizontal- and vertical-type receptacles must be of sufficient capacity to receive long letter mail  $4\frac{1}{2}$  inches in width and certain large and bulky magazines, unrolled as well as rolled, and must be so constructed and of such height or length and capacity that magazines  $14\frac{1}{2}$  inches in length and  $3\frac{1}{2}$  inches in diameter, if rolled, may be deposited and removed with ease.

**.623 Individual Doors and Locks**

- a. Each individual receptacle must be equipped with a full-length door through which the mail may be removed by the tenant. Effective January 1, 1969, the doors of the several receptacles shall be secured by five-pin tumbler cylinder locks with a minimum of 250 key changes to prevent the opening of receptacles by the use of a key to any other receptacle in the same house or in the immediate locality. These locks must be securely fastened to the door. Each lock should be clearly numbered on the back so that if a key is lost, a duplicate may be ordered by number. The lock number should also be clearly shown on the inside of the master door directly above the individual box to which it is attached.
- b. Individual box doors on the three edges opposite the hinge side must have a flanged edge of at least  $\frac{1}{4}$ " on the side, slightly less on top and bottom to provide for a rounded corner and eliminate sharp edges. Extruded aluminum doors must provide strength and stiffness on the edge opposite the hinge side equivalent to a section modulus of a quarter-inch bar.
- c. Apartment house managers must maintain a record of the number of keys supplied by manufacturers and jobbers, relating the key number to the receptacle number, so that, when necessary, new keys may be ordered. Key numbers shall not be placed on the barrels of the locks as this would make it possible for unauthorized persons to get keys and gain access to the boxes. Apartment house managers must keep a record of the

combinations of keyless locks so that new tenants may be given the combination. These records of key numbers and combinations must be kept in the custody of the manager or a trusted employee. The record of key numbers must be kept until the lock has been changed, when it may be destroyed. The record of combinations to the keyless locks must be kept until the combination is changed, when it may be destroyed.

- d. The dimensions of the clear opening of the door frame of each horizontal-type receptacle must be identical to the cross-sectional measurements of the receptacle itself.

**.624 Master Doors and Locks**

- a. Each group of front-loading receptacles must be equipped with a master door which, when open, makes the entire group of boxes accessible for the deposit of mail by the carrier. The master door must remain in the open position while the carrier is depositing mail. The master door shall be machined to accommodate an inside arrow lock furnished by the local postmaster for use so long as mail is delivered by letter carriers, and the key shall be in the custody of postal employees. Master doors for horizontal-type receptacles shall be hinged on the side only and shall be no wider than 30 inches.
- b. The master lock will be attached to the group of receptacles by the postmaster's representative who will see that it is securely attached. The plate to which the master lock will be fastened should be riveted to the face of the box. A metal plate is not required between the Arrow lock and door of a horizontal-type installation with wood master doors.

**.625 Openings and Glass Fronts in Doors**

Effective July 1, 1968, slots, glass or plastic inserts, and all decorative openings in individual doors are prohibited.

**.626 Backs of Front-Loading Receptacles**

These units must have solid backs.

**.627 Numbers and Name Cards**

- a. Vertical-type receptacles must be satisfactorily numbered or lettered in numerical or alphabetical sequence from left to right; horizontal-type receptacles must be numbered or lettered in sequence vertically from top to bottom so that in a given column of boxes the assigned numbers or letters are consecutive, with the next higher number in a column always below the lower number. These arrangements will enable the carrier to expeditiously deliver the mail.
- b. Each receptacle must be equipped with a clasp or holder to accommodate a name card for identifying the patron or patrons using that box. Preferably, this holder or clasp should be on the frame above each receptacle, but it may be located inside at the rear of the box where the patron's name will be easily visible to the carrier when the master door is open. The holder must be large enough to take a name card at least  $\frac{3}{4}$  x  $2\frac{1}{2}$  inches in vertical-type installations; and in horizontal-type installations, as large as space permits. In the latter case pressure sensitive labels may be used.

**.63 INSTALLATION****.631 Location and Arrangement**

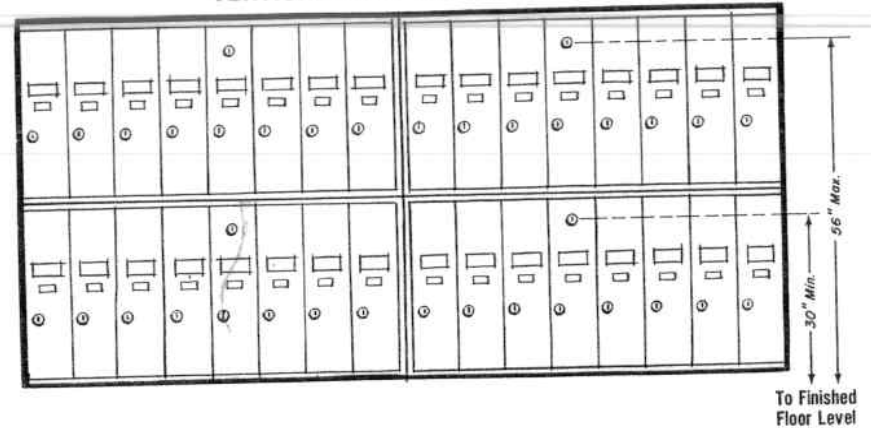
- a. Receptacles in apartment houses should be located at points reasonably near the entrance in vestibules, halls, or lobbies. The carriers must be able to serve the boxes without interference from swinging or opening doors. The area must be adequately lighted so as to afford the best protection to the mail and enable carriers to read addresses on mail and names on boxes without undue strain on their eyes.



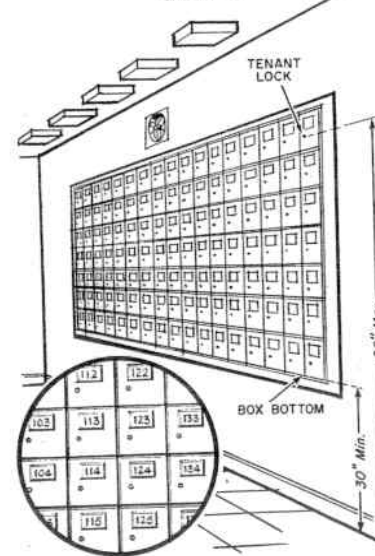
- b. In mild climate zones the installation of standard, approved apartment receptacles in exterior walls of buildings may be authorized provided they are not installed directly on the street or public sidewalk. Wherever possible, at least 15 feet should be kept between the boxes and the street or sidewalk, and the location should be clearly visible from one or more apartment windows. A canopy must be provided, designed and located to afford maximum protection from the weather, including driving rains. In addition, adequate night lighting must be installed.
- c. In vertical-type installations:
- (1) Receptacles must be placed so that the center of the barrel of the master lock of the upper tier will be no more than 56 inches from the floor. The center of the barrel of the master lock of the lower tier will be no less than 30 inches from the floor.
  - (2) No more than two tiers may be installed. The maximum number of boxes which may be installed under one arrow lock is 10 (effective July 1, 1968); the minimum number is three.
  - (3) Boxes must be arranged in groups, as many in each group as is consistent with safety, but normally never less than eight. Where the number of apartments is less than eight or where telephone units are installed with the receptacles, a lesser number may be grouped.
- d. In horizontal-type installations, the distance from the finished floor to the tenant locks on the top tier of boxes should be no more than 66 inches; and to the bottom of the lowest tier of boxes no less than 30 inches.

## APARTMENT HOUSE MAIL RECEPTACLES

### VERTICAL-TYPE INSTALLATION



### LOBBY



### MAILROOM



### HORIZONTAL-TYPE INSTALLATION

**.632 Access to Rear Loading of Horizontal-Type Receptacles**

Access to rear loading installations shall be provided by a door fitted with an inside Arrow lock opening into a room having at least 3 feet of unobstructed work space from the rear of the units to the wall. The room must be adequately ventilated and lighted. The rear of the unit must have a screen or cover of plywood or other suitable material to prevent the removal of mail from adjacent boxes and to prevent mail from falling out the back. This cover must be securely fastened and easily opened by the carrier.

**.633 Installation With Telephone Units**

- a. When necessary or desirable to install mail receptacles in conjunction with a standard size telephone unit, vertical-type receptacles may be placed in 2 tiers, or they may be installed in groups or batteies of less than 8 if required for the proper arrangement of the groups in the 2 tiers. This does not apply where the telephone unit is installed independently of mail receptacles. Although there is no objection to combining these two services, the mail receptacles must be separated from the telephone or electrical unit. Electric push buttons may be placed in the frame of the installation, connecting with wires outside the mail receptacles, provided the pushbuttons can be removed from the outside and the wire connection with such pushbuttons can be repaired without removing the receptacles.
- b. Telephone units combined with mail receptacle units must be constructed so that access to the telephone unit is not dependent on entering the mail receptacle, and the latter must not be accessible when the telephone unit is opened.

**.64 DIRECTORIES**

**.641** In all apartment houses having 15 or more receptacles, a complete directory of all persons receiving mail must be maintained. When an apartment house is divided into units with separate entrances and 15 or more receptacles are installed to the unit, a separate directory must be provided for each unit. In addition, if mail is not generally addressed to specific units, a directory must be kept at the main unit of the building, listing all persons receiving mail in the various units.

**.642** Directories must be alphabetical by surname and must be maintained and kept corrected to date. The receptacle number and apartment number should always be the same, and the apartment number should appear on the right of the name on the directory. If, for any cause, the apartment number is different from the number of the receptacle, the receptacle number should appear on the left of the name in the directory. The same arrangement shall be followed where the apartments and receptacles are either lettered or lettered and numbered.

**.643** The directory must be of legible type, in a suitable frame for protection purpose, and attached to the wall immediately above or to the side of the mail receptacles where it can be easily read. Where mailrooms are used, the directory should be removable for the convenience of the carrier. If an attendant, such as telephone operator, doorman, or elevator conductor, is on duty between the hours of 7 a. m. and 11 p. m. and mail is delivered either to apartment house receptacles or in bulk for distribution by employees of the building, the directory may be kept in the custody of the employee on duty in the building so that it may be available to the carrier or special delivery messenger on request.



**.65 MAINTENANCE AND REPAIR**

.651 The owners or managers of buildings must keep receptacles in good repair. When an inside letterbox arrow lock is no longer needed, the building management must immediately notify the postmaster so that a postal employee can be detailed to supervise removal of the lock from the master door for return to the post office.

.652 Carriers will report on Form 3521, *Carrier's Report on House Numbers and Mail Receptacles*, all apartment houses that are being remodeled and all mail boxes that are not locked or are out of repair. Delivering employees and postmasters will see that all inside letterbox arrow locks are recovered when buildings are torn down or remodeled.

.653 Upon receipt of a report of lack of repair or irregularity in the operation of apartment house mail receptacles, postmasters will have prompt investigation made and direct what repairs must be made by and at the expense of the owners or managers. So that there will be no question as to the disposition or treatment of mail, repairs must be made only when a representative of the post office is present. It is unlawful for other than postal employees to open receptacles and expose mail.

.654 Failure to keep boxes locked or in proper repair as directed by postmasters is sufficient justification for withholding delivery of mail therein and requiring the occupants of the apartments to call for their mail at the post office or carrier delivery unit serving the area if this action is believed advisable for safety reasons. When such action is contemplated, a reasonable notice of approximately 30 days will be given in writing to the patrons and the owner or manager of the apartment building.

.655 When mail, deposited by a carrier in an apartment house mail receptacle, is reported lost or stolen or when there is indication that the mail has been wilfully or maliciously damaged, defaced, or destroyed, the postmaster shall immediately report the circumstances to the local postal inspector or the postal inspector in charge.

.656 The United States Penal Code prescribes penalties for the wrongful possession of mail locks and the wilful or malicious injury or destruction of letterboxes and the theft of mail therefrom. Manufacturers are authorized to place on each installation of apartment house mail receptacles the words *U. S. Mail* and a warning notice of these provisions of law. Manufacturers are also authorized to place inconspicuously on each installation their name and words *Approved by the Postmaster General*, when the designs have been approved by the Post Office Department.

**.66 MANUFACTURERS AND DISTRIBUTORS**

Following is a list of manufacturers and distributors of one or more designs of apartment house mail receptacles approved by the Post Office Department, with trade names of boxes:

**a. Vertical Type**

Accessories Manufacturers, Ltd., 595 St. Remi St., Montreal 30, Canada.  
 Auth Electric Co., Inc., 34-20 45th St., Long Island City, N.Y. 11101.  
 Bommer Spring Hinge Co., Inc., Landrum, S.C. 29356.  
 Cutler Mail Chute Co., 76 Anderson Ave., Rochester, N.Y. 14607.  
 Dura Steel Products Co., P.O. Box 54175, Los Angeles, Calif. 90054.  
 Florence Mfg. Co., Inc., 848-864 North Larrabee St., Chicago, Ill. 60610.  
 Jensen Industries, 1946 East 46th St., Los Angeles, Calif. 90058.  
 L. A. Cal Sheet Metal, Inc., Post Office Box 385, Pico Rivera, Calif. 90660.  
 Perma-Bilt Steel Products Co., 8324 Graham Ave., Los Angeles, Calif. 90001.

S. H. Couch Co., Inc., 3 Arlington St., Boston, Mass. 02171.  
 Wisor, Smith Metal Products Co., Inc., 35 York Street, Brooklyn, N.Y. 11201

**b. Horizontal Type**

American Device Mfg. Co., Steeleville, Ill. 62288.  
 Auth Electric Co., Inc., 34-20 45th St., Long Island City, N.Y. 11101.  
 Corbin Wood Products, Div. of Emhart Corp., New Britain, Conn. 06050.  
 Cutler Mail Chute Co., 76 Anderson Ave., Rochester, N.Y. 14607.  
 Dura Steel Products Co., P.O. Box 54175, Los Angeles, Calif. 90054.  
 Florence Mfg. Co., Inc., 848-864 North Larrabee St., Chicago, Ill. 60610.

**Part 156****RURAL SERVICE****156.1 RURAL STATIONS AND BRANCHES**

.11 **ESTABLISHMENT.** Rural stations and branches, both personnel and non-personnel, are established and maintained in communities where a considerable number of people would be seriously inconvenienced if required to transact postal business with rural or star route carriers only, and where it is determined inadvisable to establish an independent post office. (See 151.122 and 151.123 for definition of stations and branches.)

**.12 FUNCTIONS**

.121 Personnel rural stations and branches accept, dispatch, receive and deliver mail, including registered, insured, COD and certified mail, issue money orders and sell stamps and stamped paper.

.122 Non-personnel rural stations and branches are self-service units which furnish essential mail services such as the collection and delivery of ordinary mail and sale of stamps. Services such as the sale of money orders, and the acceptance and delivery of certified, insured, registered and COD mail are provided patrons of non-personnel rural stations and branches by the rural carrier at the time he services the unit. Carriers are required to remain at the unit a minimum of 15 minutes each day their routes are scheduled to operate, to afford patrons the services not otherwise available from the unit, such as money orders, stamped envelopes, etc.

.13 **HOURS.** Personnel and non-personnel rural stations and branches are open during ordinary business hours of each weekday, except National holidays.

.14 **TREATMENT OF MAIL.** Mail addressed to a personnel rural station or branch will be retained there to be called for, unless the addressee is a patron of a rural route starting from the rural station, or of an adjoining route, in which case the mail will be delivered to the patron's box by the carrier. Mail addressed to a non-personnel rural station or branch will be placed in the addressee's lock box at the station or branch.